

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

CITY OF BELEN
STATE OF NEW MEXICO
ORDINANCE #2022-04

AN ORDINANCE AMENDING ORDINANCE #2020-03 ENTITLED VACANT OR FORECLOSED STRUCTURE and REGISTRATION FEE

Chapter 15.14 -VACANT OR FORECLOSED STRUCTURE REGISTRATION

15.14.010 - Short title.

This chapter shall be known and cited as the city of Belen Vacant or Foreclosed Structure Registration Ordinance.

15.14.020 - Purpose.

Due to various economic conditions, certain properties have become vacant and unsupervised. This, in turn, leads to an increased instance of unsecured or open windows and doors, broken water pipes, theft of metals and other materials, illegal dumping, and vermin activity at and around such structures. In many cases, the interiors of the structures have been damaged by the former occupants or trespassers. Unsupervised vacant properties have a negative impact on surrounding properties and the neighborhoods in which they are located. Owners of such properties are often difficult to locate or contact due to absentee landowners or changes in owner(s), financing agencies or lien holders. The ability of the city of Belen to fulfill its obligations to the citizens of Belen is enhanced when the city of Belen has the current name, address, and telephone number for persons or entities holding an interest in vacant or foreclosed properties in Belen.

15.14.030 - Definitions.

For purposes of this chapter, the following words and phrases are defined as follows:

"Commercial" means a structure that is generally used for conducting business and/or is situated in an area zoned for commercial purposes and uses.

"Foreclosed structure" means a residential or commercial structure on property for which any mortgage or tax foreclosure with respect to such property has been initiated. Foreclosure is a legal process that allows lenders or lien holders to recover the amount owed on a defaulted loan or lien by taking ownership of and selling the mortgaged or lien recorded property.

41 Ordinance 1012-06: Property Maintenance Code: IPMC" means the current edition of the
42 International Property Maintenance Code, as published by the International Code Council, as it
43 exists at the time of the adoption of this chapter or as it may be amended in the future by the
44 International Code Council.

45
46 "Ordinance 2012-2" means appendix A, rate and fee table.

47
48 "Owner" means any owner by way of a fee interest, any lien interest claimant, any holder of an
49 ownership interest by order of a court of competent jurisdiction or any mortgage property
50 servicing group being compensated to manage the property, any real estate management
51 person or entity being compensated to manage the property or any current claimant in
52 litigation over the property.

53
54 "Planning and zoning" means the department or division of the city of Belen charged with
55 matters pertaining to planning and zoning for the city of Belen. The code enforcement officer
56 shall include in the file, pertaining to any property, a written record of any information received
57 from any source pertaining to the history, problems, status or impact on the community of
58 Belen of the status of any property.

59
60 "Property" means any real property that is covered by the provisions of this chapter.

61
62 "Residential" means a structure that is generally used to live in and is situated in an area zoned
63 for residential purposes and uses.

64
65 "Vacant" means 1) not legally occupied or used for the structure's intended purpose(s); or 2) by
66 reason of its condition is open to the elements and/or in a state that there is little or no control
67 over unauthorized entry for a period in excess of (6) months. A structure may be identified as
68 vacant, under the provisions of this chapter, through any routine inspection by a planning and
69 zoning official, code enforcement personnel, or by notification by any individual or entity.

70
71 **15.14.040 - Vacant or foreclosed structure registration.**

- 72
73 A. The current owner of a "vacant," or foreclosed structure, shall register the property
74 containing that structure, provide the information required herein below in subsection
75 B. and pay the filing registration fee prescribed in section 15.14.040. E of this chapter.
76 Failure to take any of these steps shall empower the city of Belen to record a lien as to
77 the property and to foreclose any such lien in accordance with provisions applicable to
78 such liens. The city of Belen shall not be required to provide any notice prior to the
79 filing of such a lien.
- 80 B. The property shall be registered in accordance with the provisions of this chapter by
81 completing and filing a form provided by the city of Belen Planning and Zoning
82 Department which shall include the following information:
- 83 1. A description of the premises including either a street address or a legal description.

- 84
- 85
- 86
- 87
- 88
- 89
- 90
- 91
- 92
- 93
- 94
- 95
- 96
- 97
- 98
- 99
- 00
- 01
- 02
- 03
- 04
- 05
- 06
- 07
- 08
- 09
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
2. The names and addresses of any and all owners known to the party completing the form.
 3. The names and address of any lien interest holders, known to the party completing the form, including but not limited to the property manager's information.
 4. A telephone number for the individual completing the form, or, in the case of an entity, the name of a local contact person or property manager and a telephone number for that local contact person or property manager.
 5. The applicable filing fee as provided in section 15.14.040. F. of this chapter. An equivalent fee shall be due and payable on each year of the anniversary of the initial filing for such period as the property's status is vacant or foreclosed.
 6. If the building is expected to be demolished, a demolition plan stating the proposed time frame for demolition and if an assessment or consideration has been made that the building or structure is of historical or cultural significance.
 7. If the building is to be returned to appropriate occupancy or use, a detailed rehabilitation plan shall not exceed three hundred sixty-five (365) days, unless the code enforcement officer grants an extension upon the filing of a request by the party registering the property detailing the facts justifying the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes and must be secured in accordance with chapter 15.10. Code enforcement personnel will conduct an inspection of progress towards the rehabilitation plan every 3 months until the rehabilitation is complete. Failure to complete the rehabilitation plan within three hundred sixty-five days (365), plus any extensions granted, will result in a penalty as provided by Ordinance 2012-02: Appendix A: Rate and Fee Table which penalty shall be retroactively applied to the date when the City received the initial registration for the vacant or foreclosed building.
- C. The filing party shall comply with all applicable laws and codes as per Chapter 15.10. Ordinance 2012-06 (Property Maintenance Code: IPMC), current building codes, fire codes, sanitary codes and local ordinances and regulations concerning safety and maintenance. The owner shall notify the code enforcement personnel of any changes in information supplied as part of the vacant or foreclosed structure registration within thirty (30) days of any such change. If the plan or timetable for the vacant foreclosed structure is revised in any way, the revisions must be submitted in writing to and approved by the code enforcement personnel involved and/or their designees.
- D. Failure of the owner to maintain the property, as set forth in B. and C. above, that requires the city of Belen to take any remedial action shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties and foreclosure of lien provided for under this chapter. At the time of any change in ownership, the new owners shall file a new registration within thirty (30) days of transfer of any ownership in the property. The owner must notify any new property owners of the rehabilitation

26 plan in place and include completion of the rehabilitation plan as a condition of the
27 purchase of the property. The new owners shall comply with any existing approved
28 plan until any revised plan meets the approval of code enforcement personnel and/or
29 their designee.

- 30 E. Fees. The amount of any fees due under the provisions of this chapter shall be as
31 provided by Ordinance 2012-02 (Appendix A, Rate and Fee Table} which may be
32 modified from time to time.
- 33 1. Any fees which are required or due pursuant to the provisions of this chapter
34 shall be paid at the time of filing of the registration document provided by
35 the city of Belen Planning and Zoning Department.
 - 36 2. Failure to file the registration statement or pay applicable fees shall empower the
37 city of Belen to file a lien on the property in the amount due pursuant to this
38 chapter.
 - 39 3. The city of Belen shall be further empowered to foreclose any property subject
40 to a lien under this chapter.
 - 41 4. The city of Belen shall be entitled to release any lien it holds upon payment of
42 good and valuable consideration, in the full amount of the lien, whether such
43 amount is paid by the owner(s} or any other individual or entity.
 - 44 5. Any fees due shall be paid in full prior to the issuance of any building permits,
45 except in the case of a demolition permit.
 - 46 6. If a delinquent fee is not paid at the time of the transfer of the property, such
47 failure shall in no way impair the legality and enforcement of the fee and
48 associated lien filing.
 - 49 7. A vacant unit within a multi-unit structure shall be subject to fees for the
50 square footage of the vacant unit only.
- 51
- 52 F. Expenses. The owner of a vacant or foreclosed structure will be billed by the City of
53 Belen for any and all reasonable costs incurred by the City for emergency response,
54 boarding and securing, or otherwise mitigating public safety concerns created by the
55 vacant or foreclosed structure. Failure by the owner to pay for billed expenses
56 associated with their vacant or foreclosed structure within ninety (90) days of the date of
57 billing shall empower the City to record a lien as to the property and to foreclose any
58 such lien in accordance with provision applicable to such liens. The City is no required
59 to provide any notice prior to filing of such a lien.

60
61 **15.14.050 - Inspections.**

- 62
- 63 A. The Department of fire, emergency, code enforcement and planning and zoning shall
64 be authorized, under the provisions of this chapter, to inspect any premises in the city
65 for the purpose of enforcing and assuring compliance with the provisions of this
66 chapter subject to the following procedural requirements.

- 67
- 68
- 69
- 70
- 71
- 72
- 73
- 74
- 75
- 76
- 77
- 78
- 79
- 80
- 81
1. Upon the request of the enforcement officer, an owner may voluntarily provide access to the city of Belen officials to all interior portions of any property in order to access compliance.
 2. Any owner at the time of such request shall be advised of the owner's right to deny access and request procurement by the city of Belen of a search warrant.
 3. Should any owner refuse such access, the code enforcement officer shall procure a warrant from a court of competent jurisdiction to grant search warrants.
- B. If at the time of the inspection, the inspector deems that the electrical, plumbing or mechanical systems pose health or safety hazards and require additional inspection by a registered code inspector in that discipline, the owner shall be responsible to obtain and pay for the required inspection.

82 **15.14.060 - Yearly reports.**

83

84 The code enforcement department shall send to the mayor and city council a list of all buildings

85 in the city of Belen declared vacant or foreclosed under this chapter annually. Such list shall

86 indicate whether registration of the property pursuant to this chapter has occurred as well as

87 the status of any fees due hereunder.

88

89 **15.14.070 - Appeals.**

90

91 Any person aggrieved by any of the requirements of this chapter may appeal to the City

92 Manager and/or his/her designee, provided that a written application for appeal is filed with the

93 City Manager and/or his/her designee within twenty (20) days after the day of the decision,

94 notice, or order was dated. An application for appeal shall be based on a claim that the true

95 intent of this chapter has been incorrectly interpreted; the provisions of this chapter do not fully

96 apply or the requirements of this chapter are satisfied by other means.

97

98 All hearings before the City Manager shall be open to the public. The appellant, the appellant's

99 representative, the code enforcement department and any person whose interests are affected

00 shall be given an opportunity to be heard.

01

02 The City Manager shall affirm, modify or reverse the decision of the code enforcement

03 department in his/her discretion.

04

05 The vacant or foreclosed real property owner shall pay any applicable costs associated with

06 filing any such appeal.

07

08 All fees are nonrefundable.

09 **15.14.080 - Penalties.**

10
11 Any person violating the registration provisions of this chapter or providing false
12 information in the process of registering the property shall be subject to monetary
13 penalties as provided by Ordinance 2012-02: Appendix A: Rate and Fee Table.

14
15
16
17
18
19
20
21
22 **Appendix A: Utility Rates and Charges**

23 **VACANT OR FORECLOSED STRUCTURE REGISTRATION {Chapter 15.14}**

24 **Fees for registration:**

| | |
|--------------------------------------|---|
| 25 Registration fee year 1 | \$0.50 Per square foot of vacant space |
| 26 Registration fee subsequent years | \$0.25 Additional per square foot per Year of vacancy |

27
28
29
30
31
32
33 **Penalties for non-compliance**

| | |
|--|--|
| 34 Failure to comply with Chapter 15.40 Property Maintenance Code: IPMC | \$100.00 per day |
| 35 Failure to register: | First Offense: Written Warning Second Offense (After 90 days) \$300.00 |
| 36 Filing containing materially false statements | \$500.00 |
| 37 Appeal Fee | \$100.00 |
| 38 Failure to complete Approved Rehabilitation Plan Within 365 days (plus approved extensions if any) | \$100.00 per day |

39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

Robert Noblin, Mayor

61 ATTEST:

62
63
64
65
66
67
68

Dorothy Flores, City Clerk

DRAFT